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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re TORRENCE S., a Person
Coming Under the Juvenile Court
Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

TITUS S., et al.,

Defendants and Appellants.

B289666

(Los Angeles County
Super. Ct. No. 18CCJP00706)

APPEAL from a judgment of the Superior Court of Los Angeles County, Danette J. Gomez, Judge. Affirmed.

Lori Siegal, under appointment by the Court of Appeal, for Defendant and Appellant Titus S.

William Hook, under appointment by the Court of Appeal, for Defendant and Appellant Cynthia W.

Cristina Gabrielidis, under appointment by the Court of Appeal, for Minor and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Stephanie Jo Reagan, Principal Deputy County Counsel, for Plaintiff and Respondent.

The juvenile court declared Torrence S. and his brother, Tobias S., dependents of the court pursuant to Welfare and Institutions Code section 300, and ordered both children removed from parental custody.

Torrence S. and his parents, Cynthia W. and Titus S., appeal the court's jurisdictional finding and removal order as to Torrence on sufficiency of the evidence grounds. We affirm.

FACTUAL AND PROCEDURAL HISTORY

A. Referral and Detention

1. Referral

Cynthia W. (Mother) and Titus S. (Father) are the parents of Torrence S., born in June 2014,¹ and Tobias S., born in March 2016. Tobias was a “medically fragile” child who had been “diagnosed as failure-to-thrive” since his birth. On January 17, 2018, the Department of Children and Family Services (DCFS) received a referral reporting that Mother had brought Tobias to the emergency room due to extreme illness. The child was diagnosed with a severe blood infection, pneumonia and hypoglycemia, and immediately admitted to the pediatric

¹ Torrence S.'s first name is spelled differently throughout the record, with some documents referring to him as “Torrance S.” However, the juvenile court's minute orders use the “Torrence” spelling, and we do the same.

intensive care unit. According to the referral, Mother told hospital personnel she stopped giving Tobias milk because of his “cold-like symptoms.” The referring party questioned why the parents had not brought Tobias in sooner, and asserted that they had recently missed several of the child’s scheduled medical appointments.

The referring party also noted that 10 days before the current incident, emergency personnel had transported Tobias’s sibling Torrence, then three-years-old, to the emergency room with flu-like symptoms. During that incident, hospital staff observed two bottles of alcohol in Mother’s purse.

2. DCFS’s investigation

DCFS interviewed Mother regarding Tobias’s condition. Mother explained that Tobias became sick and stopped taking his bottle, requiring Mother to feed him through his “G-Tube.” Mother initially believed Tobias “had a normal cold,” but the physicians informed her he had “bacteria in his blood,” pneumonia and low blood sugar. Mother denied neglecting Tobias, asserting that she fed the child every day, and had done everything possible to help him thrive.

Mother stated that she had missed several medical appointments for Tobias because her insurance “got switched a few times causing [the child] to not have insurance for some time.” She further explained that a social worker had recently helped her fix the insurance issue, and that Tobias and Torrence had not missed any medical appointments since then.

DCFS also interviewed Father, who stated that Torrence had gotten sick from a virus, which then spread to the other members of the household, including Tobias. Father asserted that he called the paramedics when Tobias started showing signs

of illness. Father was surprised Tobias's blood sugar level was so low because he and Mother had been feeding him regularly. Father further asserted that he and Mother supported each other, and would not allow Tobias to be neglected.

On January 19, 2018, DCFS visited Tobias in the hospital. The DCFS investigator observed Mother sitting next to Tobias, who was asleep. When Tobias woke up, he wanted Mother, and showed no signs of discomfort in her care. The treating nurse informed the investigator that Tobias appeared to be doing well, and that his prognosis was good.

DCFS spoke with the parents' most recent case social worker Carla Bell. Bell stated that during the year after Tobias's birth, the parents had received voluntary maintenance services that were intended to help them meet the child's special medical needs. Bell explained that although the parents had substantially "compli[ed] [with the services,] . . . the major concern was that [they] had difficulty ensuring [Tobias] was seen for all medical appointments." When DCFS informed Bell about the latest incident involving Tobias, Bell stated that the parents should "know by now the importance of keeping up with Tobias's medical appointments," and expressed concern that "the child could be at risk as a result of [their] failing to adhere with needed medical care."

DCFS also interviewed a hospital social worker who was present when Tobias was admitted to the emergency room. The social worker stated that Tobias's extremely low blood sugar level indicated the parents had not been properly feeding the child. The social worker also stated that Mother had admitted she stopped using Tobias's "G-Tube" when the child became ill.

DCFS also spoke with Tobias's primary care physician, Catherine Deridder, who likewise reported that the child's condition and symptoms suggested the child had not been properly fed for the past "several days." Deridder stated that Mother said she stopped feeding Tobias his medically prescribed nutritional drinks because they upset his stomach, and had instead been giving the child orange juice and apple juice. Deridder reported that when Tobias was admitted to the hospital his blood sugar level was "so low to where he could have died."

Deridder expressed concern about Mother's ability to care for the child, explaining that although Tobias had been making progress, his health now seemed to be in decline. Deridder also noted that the parents had recently missed several of Tobias's medical appointments, and failed to reschedule them. According to Deridder, the hospital had been giving Mother taxi vouchers for the appointments, but stopped issuing the vouchers after Mother stopped attending.

DCFS also interviewed Tobias's adult sibling, Victoria S., who asserted that the parents were "doing their best" to care for Tobias, and were not neglectful of him or Torrence. Victoria stated that she had been assisting the parents, and would not allow them to "slack." Victoria believed the children were safe in the parents' care, and did not believe Mother or Father had any current substance abuse issues. She acknowledged, however, that both parents had recently "dr[u]nk alcohol as a coping mechanism" due to a death in the family.

DCFS also obtained hospital records pertaining to Tobias and Torrence. The records indicated that Mother told medical personnel Tobias had stopped accepting food or fluids other than water three days before the parents brought him to the

emergency room. Mother also said she stopped feeding Tobias through his G-tube because a doctor had told her G-tube feedings should stop when the child was sick.

The records also showed medical personnel had been concerned about the numerous medical appointments Tobias had missed. According to the records, the parents had continued to miss appointments despite the fact that their insurance issues had been resolved “for some time,” “transportation had been arranged” and Mother had been “extensively counseled on the need to keep all appointments.”

Finally, the records confirmed Torrence had been admitted to the hospital with an illness 10 days before Tobias’s admission. At the time of Torrence’s admission, hospital personnel observed multiple liquor bottles in Mother’s purse, and gave her a drug test. The test results showed she had a blood alcohol content level of .09 percent.

3. Section 300 petition and detention

On February 1, 2018, DCFS filed a petition alleging Tobias and Torrence fell within the jurisdiction of the juvenile court under Welfare and Institutions Code section 300.² The petition included two identically worded counts under subdivisions (b) and (j): “Tobias [S.] is a medically fragile child with a diagnosis of . . . failure to thrive . . . , requiring ongoing medical and specialty care treatment services. On [January 16, 2018], the child was medically examined and was found to be suffering from a detrimental condition including malnutrition, sepsis, pneumonia and anemia, requir[ing] emergency medical

² Unless otherwise noted, all further statutory citations are to the Welfare and Institutions Code.

treatment and hospitalization. [The parents] failed to adequately feed the child . . . [and] failed to take the child to the child's follow up medical appointments. . . . Such medical neglect of the child . . . endangers the child's physical health, safety and well-being and place the child and the child's sibling, Torrence S., at risk of serious physical harm, damage, danger and medical neglect."

DCFS filed a detention report in support of the petition that contained a summary of the interviews it had conducted during its investigation. The report also contained a summary of the parents' child welfare history, which included nine prior referrals. Six of the prior referrals predated the birth of Tobias and Torrence, and generally involved allegations of substance abuse and neglect. In September of 2008, for example, the juvenile court had sustained a petition alleging that the parents' use of illicit drugs placed the seven children then residing in their home at substantial risk of harm. The petition further alleged the children lived in an unsanitary home environment, and that "prior DCFS voluntary services ha[d] failed to resolve the family problems."

The detention report listed three prior referrals involving Tobias and Torrence. In November 2016, DCFS received a referral that Mother had not been picking up medication and therapeutic food that had been prescribed for Tobias, then seven months old, and that the child appeared to be substantially underweight. The referral also reported that Mother appeared to be under the influence of a substance, or mentally delayed, and had provided conflicting information regarding when Tobias had last visited a doctor. The allegations were substantiated.

In January 2017, DCFS received a referral that Mother had slapped Torrence in the face. The referral was deemed inconclusive.

On January 8, 2018, 10 days before DCFS received the current referral involving Tobias, the agency received a referral reporting that emergency personnel had transported Torrence to the hospital after a sibling placed a 911 call from the parents' residence. According to the referral, Torrence was found in his bedroom, lying in the fetal position, and suffering from a high fever, stomach pain and diarrhea. The referring party stated that Torrence had been sick for three days, and did not appear to be under the supervision of any adult. Mother reportedly smelled of alcohol, and was acting "completely gone." The referring party observed scabbed cuts on Torrence's forehead. When questioned about these marks, Mother said Torrence had incurred the injuries earlier in the day. The referring party also asserted that numerous other people resided in the home, which had trash on the floor and dishes "all over." When Mother arrived at the hospital to see Torrence, her speech was "slurry and scattered," and hospital personnel observed multiple bottles of alcohol in her purse. The referral was deemed inconclusive.

The report also noted that parents had previously received voluntary maintenance services that were intended to help them meet Tobias's medical needs. The services were in place from March 2016 to January 2017, and again from April 2017 to June 2017.

DCFS also expressed concern regarding parents' past substance abuse history, which resulted in the removal of seven prior children, and the termination of parental rights over two of those children. DCFS posited that the parents' prior substance

abuse issues were particularly troubling given that Mother had recently arrived at the hospital intoxicated with multiple bottles of liquor in her purse.

DCFS expressed doubt about the effectiveness of voluntary measures, explaining that the agency had already attempted voluntary maintenance services to ensure Tobias received timely medical care. As stated in the report, “[a]lthough the family followed through with the children’s medical care while the case was open, as soon as the case closed Mother and Father began missing pertinent medical appointments for Tobias.” Given the parents’ past and recent conduct, DCFS recommended that the children be detained from the home.

At the detention hearing, the juvenile court found DCFS had provided prima facie evidence that both children were persons described in section 300. The court ordered Tobias removed from the home, but found reasonable services were available to prevent the detention of Torrence because he was not medically fragile. The court directed DCFS to submit a jurisdiction report by March 23, 2018, and scheduled an adjudication for April 2, 2018.

B. Jurisdiction and Disposition

1. Jurisdiction and disposition report

DCFS submitted a “Jurisdiction/Disposition Report” summarizing additional interviews it had conducted since the detention hearing.

During her second interview with DCFS, Mother stated that the entire family “got the flu” over the holidays, but everyone seemed to get better, including Tobias. However, Tobias eventually became sick again, and Father called 911 because he thought the child “did not look right.” Mother

asserted she had fed Tobias while he was sick, and denied having waited too long to bring him to the hospital. She claimed that she regularly took Tobias to the doctor, and had only missed one or two appointments due to circumstances outside her control, including repeated changes to her insurance coverage.

Mother stated that she was a recovered cocaine addict, and had previously lost custody of several other children as a result of that addiction. She denied any history of mental illness or domestic violence. Although Mother asserted that she was “tired of all the allegations” that had been made against her, she assured DCFS there would “not be a next time because I am going to be careful. I am going to the doctor the first time he coughs.”

DCFS also re-interviewed Father, who confirmed that the entire family had gotten ill over the holidays. Father claimed he was the person who had called 911 regarding Torrence, which conflicted with the information set forth in the detention report. Although Father acknowledged medical personnel had told him and Mother they “waited too long” to bring Tobias to the hospital, he asserted that Tobias “looked fine” until shortly before they brought him in. Father further asserted that the reason he and Mother had missed some of Tobias’s medical appointments was because of changes to the family’s medical plan. Father also stated that it seemed like Mother had a “red flag on her. They are automatically aiming at her.”

DCFS interviewed Theresa Nunez, the family’s Regional Center Educator who had last visited with the family in December of 2017. Nunez reported that although Tobias was frequently sick, she never had any concerns about the parents,

and “never got any red flags.” She did note, however, that Mother had cancelled many of their meetings.

Tobias’s doctor, Catherine Deridder, reported that she did not believe Mother was neglectful, and described her as a “good communicator” who called the office “all the time.” Deridder further stated, however, that it appeared Mother had stopped giving Tobias “his feeds [after he became sick], and was only giving him juice and water. I was very surprised that she didn’t call sooner. To give her the benefit of the doubt, she may have thought of him of just having a cough.” Deridder stated that Tobias’s low blood sugar level at the time of his admission was likely due to lack of food. Deridder also noted that Mother had failed to attend several appointments in November and December of 2017, and provided “one excuse after another” as to why she could not attend.

Deridder reported that Tobias had “gain[ed] significant weight” in his current placement, which suggested Mother “wasn’t feeding him appropriately at home.” Deridder emphasized that she had a “nice relationship with [Mother],” but believed Mother had become unreliable, and needed to demonstrate she could properly feed the child.

In its assessment and evaluation, DCFS recommended that the court sustain the petition, and order both children removed from parental custody. Although DCFS acknowledged the parents had cooperated during the investigation and were willing to participate in services, the agency nonetheless believed both children remained at “very high risk” based on the “conduct of the parents in regards to unresolved issues with general and medical neglect.” The agency recommended reunification services for both parents.

2. The contested adjudication

On April 25, 2018, the court held a contested adjudication. Father's counsel called DCFS's dependency investigator, Keisha Stanton, to testify. Stanton acknowledged there was no evidence that Torrence was medically fragile, or that he had missed any scheduled medical appointments. Stanton further testified that although Tobias's doctors had told the agency the child had missed several recent medical appointments, Stanton was not able to state the specific date of any of those appointments, and was uncertain whether they had been rescheduled. Stanton also admitted DCFS had not pleaded substance abuse as a grounds for jurisdiction in the current petition. Stanton expressed concern, however, that the parents had acknowledged they still drank, and that Mother had failed an alcohol test while visiting Torrence in the hospital.

Mother also testified at the adjudication. She explained that on the date she tested positive for alcohol, she had been drinking with other family members at a commemoration for a recently deceased uncle. Later that evening, she noticed Torrence did not look well; he had a fever and was not responsive. She denied that Torrence had been sick before that day, and asserted that Father was the person who called 911. Mother stated that she had placed vodka bottles in her purse during the earlier family event, and forgot to take them out before traveling to the hospital. Mother admitted she was a recovered cocaine addict, explaining that she had remained clean for the past 10 years. Mother acknowledged alcohol was a drug, but claimed that she only drank on special occasions, such as when a family member died.

During closing argument, DCFS recommended that the court sustain the petition, order the children removed from parental custody and provide both parents reunification services.

Father's counsel argued the court should dismiss the petition in its entirety, asserting that there was no evidence Torrence had "been medically neglected," or that he had ever missed a medical appointment. Counsel acknowledged Tobias presented a closer case, but asserted that the evidence showed the parents had "corrected the insurance problems" that caused them to miss several of Tobias's medical appointments, and had assured DCFS they would provide Tobias with any medical care he might need in the future.

Counsel for Mother and the children both agreed with Father, arguing that the evidence suggested the parents were simply mistaken about the severity of their children's illnesses, and were "working hard" to remedy the situation. Counsel for Mother, Father and the children also all agreed that if the court did sustain the petition, there was no basis to remove either child from parental custody.

3. The juvenile court's findings and disposition

The juvenile court sustained the allegations in the petition, explaining that the evidence showed Tobias's medical condition had been "an ongoing situation" that required the parents to "pay attention." Despite these ongoing concerns, the parents had failed to take "basic" steps to care for the child. The court also emphasized that DCFS's reports indicated that only 10 days before Tobias was hospitalized, Torrence had been transported to the emergency room after a sibling called 911 due to concerns about the child's medical condition. The court further explained that the evidence showed the parents continued to miss many of

Tobias's medical appointments. Moreover, Tobias had gained weight in his new placement, suggesting that the parents had been negligent in feeding him. The court also expressed concern "about Mother's alcohol intake," which it found to be especially problematic given her prior history of substance abuse.

Regarding disposition, the court agreed with DCFS's recommendation to remove the children from parental custody. Although the court acknowledged a different judicial officer had ordered Torrence released to parents at the detention hearing, it explained that it was not bound by that decision. In support of its removal decision, the court noted that the evidence indicated Tobias's condition at the time of his admission was life threatening, and that Torrence had been severely ill for three days without any action being taken by the parents. The court also cited the children's young age as a factor supporting removal.

The Court ordered DCFS to notify the parents of all medical appointments, and to provide unmonitored visitation and reunification services.

DISCUSSION

A. Substantial Evidence Supports the Juvenile Court's Jurisdictional Finding Regarding Torrence

Mother, Father and Torrence challenge the juvenile court's jurisdictional finding as to Torrence based on insufficiency of the evidence.

1. Standard of review

"In reviewing a challenge to the sufficiency of the evidence supporting the jurisdictional finding[] . . ., we determine if substantial evidence, contradicted or uncontradicted, supports

them. “In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court.” [Citation.] “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.”” (*In re I.J.* (2013) 56 Cal.4th 766, 773 (*I.J.*)). We review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence such that a reasonable trier of fact could find that the order is appropriate. (*Ibid.*; *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.)

2. Summary of applicable jurisdictional provisions

The juvenile court found that Torrence qualified as a dependent child under section 300, subdivisions (b) and (j). Subdivision (b) authorizes jurisdiction if “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child. . . . or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment.” A true finding under subdivision (b) requires proof of: “(1) neglectful conduct by the parent in one of the specified forms; (2) causation; and (3) ‘serious physical harm or illness’ to the minor, or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820, overruled on a different ground in *In re R.J.* (2017) 3 Cal.5th 622 (*R.J.*), see also *In re Noe F.* (2013) 213 Cal.App.4th 358, 366.) “The third element ‘effectively requires a showing that at the

time of the jurisdictional hearing the child is at substantial risk of serious physical harm in the future. . . .” (*In re James R.* (2009) 176 Cal.App.4th 129, 135, overruled on another ground in *R.J.*, *supra*, 3 Cal.5th 622.)

Subdivision (j) permits jurisdiction when “[t]he child’s sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. The court shall consider the circumstances surrounding the abuse or neglect of the sibling, the age and gender of each child, the nature of the abuse or neglect of the sibling, the mental condition of the parent or guardian, and any other factors the court considers probative in determining whether there is a substantial risk to the child.” (§ 300, subd. (j).)

“[S]ubdivision (j) was intended to expand the grounds for the exercise of jurisdiction as to children whose sibling has been abused or neglected as defined in section 300, subdivision (a), (b), (d), (e), or (i). . . . [¶] Unlike the other subdivisions, subdivision (j) includes a list of factors for the court to consider. . . . “The “nature of the abuse or neglect of the sibling” is only one of many factors that the court is to consider in assessing whether the child is at risk of abuse or neglect in the family home. Subdivision (j) thus allows the court to take into consideration factors that might not be determinative if the court were adjudicating a petition filed directly under one of those subdivisions. [¶] The broad language of subdivision (j) clearly indicates that the trial court is to consider the totality of the circumstances of the child and his or her sibling in determining whether the child is at substantial risk of harm, within the meaning of any of the subdivisions enumerated in subdivision (j). The provision thus accords the

trial court greater latitude to exercise jurisdiction as to a child whose sibling has been found to have been abused than the court would have in the absence of that circumstance.’ [Citation.]” (*I.J., supra*, 56 Cal.4th at p. 773.) “Because the assessment of risk to a sibling depends in part on the circumstances of an abused or neglected child, “subdivision (j) implies that the more egregious the abuse, the more appropriate for the juvenile court to assume jurisdiction over the siblings.” [Citation.]” (*In re D.B.* (2018) 26 Cal.App.5th 320, 328 (*D.B.*).)

“When a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court's jurisdiction, a reviewing court can affirm the juvenile court's finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence.’ [Citation.]” (*I.J., supra*, 56 Cal.4th at p. 773.)

3. *Substantial evidence supports the juvenile court’s finding under subdivision (j)*

We focus our analysis on subdivision (j), which applies when “the child’s sibling has been abused or neglected as defined in specified other subdivisions and . . . there is a substantial risk that the child will be abused or neglected as defined in those subdivisions.” (*I.J., supra*, 56 Cal.4th at p. 774.) The juvenile court found Mother and Father neglected Tobias within the meaning of subdivision (b) by failing to feed him, and failing to obtain timely medical care, which placed the child at risk of death. No party has challenged that jurisdictional finding. Accordingly, the only disputed issue is whether there is sufficient evidence that Torrence was at substantial risk of abuse or neglect

within the meaning of another subdivision, including subdivision (b), which includes risk resulting from a parent's "negligent failure . . . to provide the child with adequate . . . medical treatment."

Numerous factors support the court's jurisdictional finding that the parents' neglectful conduct placed Torrence at substantial risk of harm. First, the record shows that the level of neglect the parents exhibited toward Torrence's sibling was extreme. Tobias's physician noted that his blood sugar level was so low that he could have died. Multiple medical personnel concluded that Tobias's condition was caused by the parents' failure to properly feed him, and their failure to seek medical care sooner. The evidence also showed the parents had missed several of Tobias's medical appointments, and that the child's health began to improve after he was removed from their custody. The parents' neglectful conduct toward Tobias was especially egregious given that they knew he was a medically fragile child, and had previously received services to address that very issue.

Second, the record contains evidence that only 10 days before Tobias was hospitalized, the parents had exhibited similar neglectful behavior toward Torrence. As noted by the trial court, DCFS's reports indicate that on January 8, 2018, the agency received a referral report that Torrence was transported to the hospital after his sibling called 911 due to concerns about the child's medical condition. Torrence was reportedly found unsupervised, lying in the fetal position in his bed with a high fever, suffering from diarrhea. Mother was intoxicated, and traveled to the hospital with multiple liquor bottles in her purse. Although the parents told DCFS that Torrence had only been ill

for a short time, the record indicates he had been suffering from a high fever and diarrhea for three days. At the adjudication hearing, Mother confirmed several of the allegations in the referral, acknowledging that Torrence had been transported to the hospital that day, that she had been drinking before arriving at the hospital and that she had bottles of liquor in her purse.

Third, as the juvenile court also noted in its ruling, Torrence was only three years old when these events occurred, and therefore had no ability to care for or protect himself.

Fourth, the record contains evidence that the parents failed to take responsibility for the issues that had brought the family to the attention of DCFS. (See *In re Esmeralda B.* (1992) 11 Cal.App.4th 1036, 1044 [“denial is a factor often relevant to determining whether persons are likely to modify their behavior in the future without court supervision”]; *In re A.J.* (2011) 197 Cal.App.4th 1095, 1106 [parent’s refusal to acknowledge responsibility is relevant in assessing risk at the jurisdictional stage].) According to DCFS’s reports, the parents “appear[ed] to take no accountability for the current issue[s].” During their interviews, both parents suggested they were being unfairly targeted, and repeatedly blamed Tobias’s missed medical appointments on insurance and transportation problems, despite evidence showing those issues had previously been addressed. Moreover, when DCFS questioned Mother about Tobias’s condition, she insisted that she had properly fed the child. The child’s physician, however, noted that the child’s blood sugar level indicated he had not eaten properly in days, and multiple witnesses asserted that Mother had admitted she stopped feeding the child.

Fifth, the record shows that the parents had recently received voluntary maintenance services that were intended to address the very same issues that gave rise to the current petition, namely inadequate medical care of Tobias. DCFS explained in its detention report that while the parents had followed through with the children's medical care "while the case was open," they started missing medical appointments "as soon as the case closed."

Considered together, the evidence summarized above was sufficient to support the juvenile court's finding that Torrence qualified as a dependent of the juvenile court under subdivision (j).

B. Substantial Evidence Supports the Juvenile Court's Removal Order

Appellants also challenge the portion of the juvenile court's disposition order removing Torrence from parental custody.

1. Summary of applicable legal principles

"At the dispositional hearing, a dependent child may not be taken from the physical custody of the parent . . . unless the court finds there is clear and convincing evidence there is or would be a substantial danger to the child's physical health, safety, protection, or physical or emotional well-being if returned home, and that there are no reasonable means to protect the child's physical health without removing the child. . . . [Citation.] The parent need not be dangerous and the minor need not have been actually harmed before removal is appropriate. The focus of the statute is on averting harm to the child. [Citation.]" (*D.B., supra*, 26 Cal.App.5th at p. 328; see also § 361.) "We review the entire record to determine whether the trial court's . . .

dispositional findings are supported by substantial evidence.”
(*D.B., supra*, 26 Cal.App.5th at p. 328.)

“‘The jurisdictional findings are prima facie evidence the minor cannot safely remain in the home.’ [Citation.] In determining whether a child may be safely maintained in the parent’s physical custody, the juvenile court may consider the parent’s past conduct and current circumstances, and the parent’s response to the conditions that gave rise to juvenile court intervention. [Citation.] The juvenile court must also consider whether there are any reasonable protective measures and services that can be implemented to prevent the child’s removal from the parent’s physical custody. [Citations.]” (*D.B., supra*, 26 Cal.App.5th at p. 332.)

2. The juvenile court’s removal order is supported by substantial evidence

Appellants argue there was no basis to remove Torrence from parental custody because, unlike Tobias, he was not medically fragile, and there was no evidence he was ever “the victim of neglect in the parents’ home. . . , or . . . suffered any harm as a result of the neglect that the court found with respect to Tobias.”

While it is true that Torrence does not share Tobias’s diagnosis of medical fragility, we disagree with appellants’ assertion that there is no evidence Torrence ever suffered harm as a result of the parents’ neglect. As explained above, DCFS’s reports indicate that only 10 days before Tobias’s hospitalization, Torrence was transported to the emergency room after a sibling found him suffering from serious illness. The reports further indicate Torrence was not being supervised when his sibling found him, and that Mother was intoxicated. The parents’

conduct toward Torrence supports the court's finding that the child would be at substantial danger of future harm if left in their presence. The court's finding is also supported by several additional factors discussed above in relation to the jurisdictional order, including Torrence's young age, the parents' failure to hold themselves accountable for what had occurred and the ineffectiveness of voluntary services the parents had recently received to address similar issues.

Mother, however, contends this case cannot be meaningfully distinguished from *In re Hailey T.* (2012) 212 Cal.App.4th 139 (*Hailey T.*). In *Hailey T.*, a child welfare agency filed a petition alleging the parents had intentionally struck their four month old in the eye, and sought removal of the infant and his four-year-old sister. The evidence showed the parents had taken the infant to a physician after he developed bruising near his right eye. The examining physician, a child abuse specialist, concluded that the injuries were nonaccidental. The parents, however, denied causing the injury, and posited that their four-year old daughter might have accidentally injured the infant. A police officer who had investigated the matter found that to be the most likely cause of the infant's injuries. At the adjudication, the examining physician testified that a four-year old could not have caused the type of injuries the infant had suffered. The parents' expert provided conflicting testimony, concluding that the injuries could have been accidental, and caused by a small child. The juvenile court sustained the petition, and ordered both children removed from the home.

Parents appealed the removal order with respect to their four-year old daughter, contending there was no evidence the child would be at substantial danger of harm if left in their

custody. The appellate court agreed, explaining that the record contained “no evidence suggesting [the older child] was ever a victim of abuse in the parents’ home, or that she suffered any harm as a result of the abuse that the court found with respect to [the infant.]” (*Hailey T.*, *supra*, 212 Cal.App.4th at p. 147.) The court also emphasized that the record contained “abundant evidence” demonstrating the mother and father were “good parents who enjoyed a healthy relationship.” (*Ibid.*) Moreover, the parents had no prior welfare history, and no history of substance abuse, domestic violence or mental illness. The court further noted that the only evidence “that either parent inflicted [the infant’s] eye injuries [wa]s disputed expert evidence that [the older child] could not have done so.” (*Id.* at p. 148.)

Several facts distinguish this case from *Hailey T.* First, and most significantly, unlike in *Hailey T.*, the record here does contain evidence that Torrence was a victim of the same type of medical neglect the parents had exhibited toward his sibling. Second, Mother and Father have an extensive prior welfare history, which includes several recent incidents involving Torrence and Tobias. Moreover, both parents have a history of substance abuse, and Mother was found to be intoxicated when visiting Torrence at the hospital. Finally, in contrast to the situation presented in *Hailey T.*, the evidence of parents’ neglectful conduct toward their children was supported by statements from multiple medical personnel and social workers, and by hospital records.

Appellants also argue that even if substantial evidence supports the juvenile court’s finding that Torrence would be at substantial danger of harm if returned to the parents’ home, there were nonetheless “less drastic alternatives available than

removal,” including leaving Torrence in the parents’ custody “under . . . supervision by DCFS.” We find no error in the court’s finding that there were no reasonable means to protect the child other than removal. The parents were the subject of two separate referrals in a 10-day period that involved similar forms of medical neglect toward each child. During the prior year, they received voluntary maintenance services that were intended to address these same issues. Moreover, despite everything that had occurred with their children, the parents continued to minimize their responsibility for the events that had brought the family to DCFS’s attention. Considered together, this evidence supports the court’s decision that removal was the only reasonable means of protecting the children.

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

FEUER, J.